

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Brantley W. Coile et al..
Serial No.:	10/622,053
Filing Date:	July 17,2003
Confirmation No.:	2275
Group Art Unit:	2155
Examiner:	Liang Che A. Wang
Title:	METHOD AND APPARATUS FOR ELIMINATING
USE	OF A TRANSFER PROTOCOL ON A PROXIED CONNECTION

Honorable Commissioner  
for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The following Pre-Appeal Brief Request for Review (this “Request”) is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 (“OG Notice”). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicants respectfully request reconsideration of the Application in light of the remarks set forth below.

**REMARKS**

Claims 1, 3-7, 9-13, 15-19 and 21-25 are pending in this Application. In a Final Office Action dated March 30, 2007 (the "*Final Office Action*"), the Examiner rejected Claims 1, 3-17, 9-13, 15-19 and 21-25. Applicants contend that the rejection of Claims 1, 3-17, 9-13, 15-19 and 21-25 on prior art grounds contain clear legal and factual deficiencies, as described below.

Specifically, Claims 1, 5-7, 11-13, 17-19, 23-25 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,718,550 issued to Lim et al. ("*Lim*"). As Applicants have previously noted in a Response to the Final Office Action filed May 29, 2007 (the "*Response to Final Office Action*"), the rejection fails to satisfy the legal requirements for a 35 U.S.C. § 102 rejection. For a rejection under 35 U.S.C. § 102 to be proper, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim," and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131 (emphasis added). For at least several reasons, *Lim* fails to recite, expressly or inherently, every element of Claim 1 with the same level of detail and arrangement as required by Claim 1.

First, as previously noted by Applicants *Lim* fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server." As Applicants previously noted, the Examiner, in addressing this element of Claim 1 (*Final Office Action*, p. 6.), refers to a portion of *Lim* that merely discusses the use of a remote method table and a local method table to identify dispatch methods associated with client representations. In particular, the cited portion discloses only that:

In another aspect of the invention, a distributed client/server computing system is provided which includes a plurality of client representations, a remote method table and a local method table... In contrast, the local method table is arranged to identify local dispatch methods associated with a second set of the client representations. The local dispatch methods are arranged to cause invocation requests to pass to a servant without being routed through the transport layer, thereby reducing the computing overhead associated with the invocation of local objects.

Col. 2, ll. 39-42 and 51-57, emphasis added.

In response to this argument, the Examiner states that:

*Lim* teaches the use of method table dispatch 24 to determine if a process should be done in [sic] locally or remotely to server (Col 7 lines 7-17, Col 9

line 61- Col 10 line 14), which corresponds to “determining whether a quad of the packet is in a list of non-participating connections to the server.”

*Final Office Action*, p. 2, emphasis added.

As Applicants previously noted (*Response to Final Office Action*, p. 12), however, the Examiner has provided no basis or explanation for the assertion that the local method table comprises “a list of non-participating connections to the server.” Instead, *Lim* clearly indicates that the method table “contains a list of pointers” that point to a set of stub functions (*Lim*, col. 6, ll. 61-67, emphasis added). Thus, the Examiner has not shown “determining whether a quad of a packet is in a list of non-participating connections to the server” (emphasis added) as required by Claim 1.

Second, as Applicants also noted previously (*Response to Final Office Action*, pp. 12-13), *Lim* does not disclose “determining whether a quad of a packet” is in any form of list. The cited portion of *Lim* makes no reference whatsoever to any “quad.” Thus, *Lim* fails to disclose “determining whether a quad of a packet is in a list of non-participating connections to the server” for at least this additional reason.

In response to this argument, the Examiner alleges that:

By definition, quad is a block of memory. *Lim* teaches the method table to determine if a process is local or remote process. The determination is based on the information regarding the process being determined. And the only form for the system to read the information, are blocks of memory that contains the information for the system to read.

*Final Office Action*, p. 2.

Applicants respectfully dispute the Examiner’s assertion that “[b]y definition, quad is a block of memory.” The present Application provides a different definition for “quad” from the one advanced by the Examiner. Specifically, the present Application states that:

In the TCP/IP protocol, in order to properly route packets, it is necessary to use the source IP address and port number and the destination IP address and port number found in the packet header. These four quantities together will be referred to as a “quad.”

*Application*, p. 11, ll. 24-27, emphasis added.

Thus, the cited portion of *Lim* does not discuss “determining whether a quad of a packet” is in any type of list. Consequently, *Lim* also does not disclose “determining whether a quad of a packet is in a list of non-participating connections to the server” for this reason as well.

Third, as Applicants also previously noted (*Response to Final Office Action*, p. 13), because *Lim* fails to disclose “determining whether a quad of a packet is in a list of non-participating connections to the server,” *Lim* also fails to disclose any elements that include the limitation “in response to determining that the quad of the packet is in the list.” Thus, *Lim* also fails to disclose “in response to determining that the quad of the packet is in the list, transmitting the packet on a non-participating path through the non-participating application” as required by amended Claim 1.

As a result, *Lim* fails to recite, expressly or inherently, every element of Claim 1. Claim 1 is thus allowable for at least these reasons. Consequently, the rejection of Claim 1 contains clear factual and legal deficiencies. Applicants respectfully request reconsideration and allowance of Claim 1 and its dependents.

Although of differing scope from Claim 1, Claims 7, 13, 19, and 25 include elements that, for reasons substantially similar to those discussed with respect to Claim 1, are not disclosed by the cited reference. Claims 7, 13, 19, and 25 are thus allowable for at least these reasons. Consequently, the rejections of Claims 7, 13, 19, and 25 contain clear factual and legal deficiencies as well. Applicants respectfully request reconsideration and allowance of Claims 7, 13, 19, and 25, and their respective dependents.

**CONCLUSIONS**

As the rejection of Claims 1, 3-7, 9-13, 15-19 and 21-25 contain clear deficiencies, Applicants respectfully request a finding of allowance of Claims 1, 3-7, 9-13, 15-19 and 21-25. To the extent necessary, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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